IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S.ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NOs.5145, 5226 and 5228 of 2005

1.WRIT PETITION NO.5145 of 2005

Between:

M/s.Vijaya Silk House Limited, (Varanasi), Hindupur, rep.by its Director, Sri Ganesh Kumar Gupta.

...PETITIONER

AND

1. Commercial Tax Officer, Hindupur.
2. Appellate Deputy Commissioner (CT), Kurnool.
3. Additional Commissioner (CT) (Legal), Andhra Pradesh, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction particularly one in the nature of writ of Mandamus granting stay of collection of the nature of writ of Mandamus granting stay of collection of the balance disputed tax of Rs.5,22,068/- for the assessment year 1999-2000 (CST) arising in pursuance of the proceedings of the third respondent dated

20.01.2005 passed in CCT's Ref.No.LV(3)/ 2187/2004, read with the assessment order dated 23.03.2002 passed by the first respondent pending disposal of the appeal before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner: MR.S.KRISHNA MURTHY

Counsel for the Respondents: SPL.GP FOR COMMERCIAL TAX

2.WRIT PETITION NO.5226 of 2005

Between:

M/s. Vijaya Silk House Limited, Hindupur, Rep. by its Director Sri Ganesh Kumar Gupta.

...PETITIONER

AND

1. Commercial Tax Officer, Hindupur.
2. Appellate Deputy Commissioner (CT), Kurnool.
3. Additional Commissioner (CT) (Legal), Andhra Pradesh, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction particularly one in the nature of writ of Mandamus granting stay of collection of the balance disputed tax of Rs.18,53,129/- for the assessment year 1999-2000 (CST) arising in pursuance of the proceedings of the third respondent dated 20.01.2005 passed in CCT's FRef.No. LV(3)/2187/2004, read with the assessment order dated 24.09.2003 passed by the first respondent pending disposal of the appeal before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner: MR.S.KRISHNA MURTHY

Counsel for the Respondents: SPL.GP FOR COMMERCIAL TAX

3.WRIT PETITION NO.5228 of 2005

Between:

M/s.Vijaya Silk House Limited, (Surat), Hindupur, rep.by its Director Sri Ganesh Kumar Gupta.

...PETITIONER

AND

1. Commercial Tax Officer, Hindupur.
2. Appellate Deputy Commissioner (CT), Kurnool.
3. Additional Commissioner (CT) (Legal), Andhra Pradesh, Hyderabad.
4.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction particularly one in the nature of writ of Mandamus granting stay of collection of the balance disputed tax of Rs.6,11,303/- for the assessment year 1999-2000 (CST) arising in pursuance of the proceedings of the third respondent dated 20.01.2005 passed in CCT's Ref.No.LV(3)/2187/2004, read with the assessment order dated 23.03.2002 passed by the first respondent pending disposal of the appeal before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner: MR.S.KRISHNA MURTHY

Counsel for the Respondents: SPL.GP FOR COMMERCIAL TAX

The Court at the admission stage made the following:

THE HON'BLE MR JUSTICE M.H.S.ANSARI

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NOs.5145, 5226 and 5228 of 2005

COMMON ORDER: (Per the Hon'ble Mr.Justice T.Ch.Surya Rao)

Inasmuch as common question of law is involved, all these three Writ Petitions can be disposed of together.

The petitioner approached this Court earlier as against the rejection of stay orders pending disposal of his appeal before the Appellate Deputy Commissioner (CT). This Court while disposing of the Writ Petitions, (three in number) directed the petitioner to deposit 50% of the disputed tax granting stay for the collection of the balance amount. Pursuant to the said directions, the petitioner deposited the said amount. When the appeals were pending before the second respondent, the three Writ Appeals were dismissed. Assailing the said orders, the petitioner filed appeals before the Sales Tax Appellate Tribunal, which are now pending adjudication. The petitioner approached the third respondent seeking stay in accordance with the provisions contained in Section 19 (2) (c) of the APGST Act. The request having not been considered, the writ petitioner filed the instant Writ Petitions.

A perusal of Section 19 (2) (c) of the Act leaves no room for any doubt. Stay granted by this Court earlier shall continue to operate when the appeals are filed before the Sales Tax Appellate Tribunal consequent upon the dismissal orders passed by the Appellate Deputy Commissioner earlier. In that view of the matter, the three Writ Petitions are liable to be allowed and are accordingly allowed at the threshold. No

costs.

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(M.H.S.ANSARI,J)

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(T.CH.SURYA RAO ,J)

17th March 2005

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Commercial Tax Officer, Hindupur.
2. The Appellate Deputy Commissioner (CT), Kurnool.
3. The Additional Commissioner (CT) (Legal), Andhra Pradesh, Hyderabad.
4. Two CCs to Spl.G.P. for Commercial Taxes, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.